

AMENDED IN ASSEMBLY MAY 6, 2003

AMENDED IN ASSEMBLY APRIL 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

## ASSEMBLY BILL

**No. 256**

**Introduced by Assembly Member Vargas**

February 4, 2003

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An act to add Sections ~~110456 and 110592~~ *Section 105307* to the Health and Safety Code, relating to ~~adulterated food~~ *lead*.

### LEGISLATIVE COUNSEL'S DIGEST

AB 256, as amended, Vargas. Adulterated foods: candy: maximum allowable lead levels.

Under existing law, the State Department of Health Services is responsible for administering ~~and enforcing the Sherman Food, Drug, and Cosmetic Law, which, among other things, prohibits the adulteration of food, or manufacturing, selling, delivering, holding, or offering for sale any adulterated food, as defined. Under existing law, violation of these provisions is a crime~~ *the Childhood Lead Poisoning Prevention Act of 1991. Existing law requires the department to establish a childhood lead poisoning prevention program to identify and conduct medical followup of high-risk children, and to establish procedures for environmental abatement and followup designed to reduce the incidence of excessive childhood lead exposures.*

This bill would require the department to commence and maintain a program to monitor lead levels in all *imported* candy ~~manufactured or sold or distributed~~ in the state, including a sampling and testing program to determine the lead levels contained in the candy. The bill

would require the department to establish maximum allowable lead levels for candy, as specified.

This bill would require the department, if it tests a candy and determines that the candy exceeds the maximum allowable lead level, to issue health advisory notices to county health departments alerting them to the dangers posed by consumption of the adulterated candy, and to notify the manufacturer and distributor of the candy that the candy ~~is adulterated~~ *exceeds the maximum allowable lead level* and shall not be sold or distributed in the state unless further testing proves that the candy is in compliance with the maximum allowable lead level.

~~This bill would include in the definition of adulterated food any candy containing lead levels that exceed those established by the department pursuant to the bill, except as specified.~~

~~By creating a new crime, this bill would create a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~yes~~ *no*.

*The people of the State of California do enact as follows:*

1 ~~SECTION 1. Section 110456 is added to the Health and~~  
2 ~~Safety Code, to read:~~  
3 ~~110456.—~~

4 *SECTION 1. The Legislature finds and declares that*  
5 *dangerous lead levels have been found in candy imported into*  
6 *California from outside of the United States.*

7 *SEC. 2. Section 105307 is added to the Health and Safety*  
8 *Code, to read:*

9 *105307. (a) The department shall commence and maintain a*  
10 *program to monitor lead levels in all candy* ~~manufactured or sold~~  
11 *imported from outside of the United States and sold or distributed*  
12 *in the state. The program established pursuant to this section shall*  
13 *include a sampling and testing program to determine the lead*  
14 *levels contained in the candy.*

(b) The department shall establish maximum allowable lead levels for all *imported* candy ~~manufactured or sold~~ *sold or distributed* in the state. In establishing these levels, the department shall consider any relevant standards, guidelines, and information available from the federal Food and Drug Administration and the federal Centers for Disease Control and Prevention, as well as any other source the department deems appropriate.

(c) If the lead level in a candy that is tested by the department pursuant to subdivision (a) exceeds the maximum allowable lead level, the department shall do both of the following:

(1) Issue health advisory notices to county health departments alerting them to the danger posed by consumption of the ~~adulterated~~ *specified* candy.

(2) Notify the manufacturer and the distributor of the candy that the candy ~~is adulterated~~ *exceeds the maximum allowable lead level*, and that the candy shall not be sold or distributed in the state until further testing proves that the candy is in compliance with the maximum allowable lead level.

(d) (1) If a candy exceeds the maximum allowable lead level, the manufacturer or distributor may attempt to correct the problem and resubmit the candy to the department for further testing.

(2) If the lead content of the candy is below the maximum allowable lead level when it is retested, the department shall provide the manufacturer or distributor and the county health department with a letter stating that the candy ~~is safe~~ *has been retested and determined to contain less than the maximum allowable lead level established by the department*, and that the sale and distribution of the candy in the state may resume.

(3) If the candy still exceeds *the* maximum allowable lead level after it has been retested, the manufacturer or distributor shall take corrective measures and continue to resubmit samples for testing until the candy's lead content is below the maximum allowable lead level if the manufacturer or distributor wishes to sell or distribute the candy in the state.

~~SEC. 2. Section 110592 is added to the Health and Safety Code, to read:~~

~~110592. Any food is adulterated if it is candy and it contains lead levels that exceed the levels established by the department pursuant to Section 110456. However, the candy is not adulterated if the lead is a naturally occurring substance in the candy and if the~~

1 ~~quantity of the lead in the candy does not render the candy~~  
2 ~~injurious to health.~~  
3 ~~SEC. 3. No reimbursement is required by this act pursuant to~~  
4 ~~Section 6 of Article XIII B of the California Constitution because~~  
5 ~~the only costs that may be incurred by a local agency or school~~  
6 ~~district will be incurred because this act creates a new crime or~~  
7 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
8 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
9 ~~the Government Code, or changes the definition of a crime within~~  
10 ~~the meaning of Section 6 of Article XIII B of the California~~  
11 ~~Constitution.~~

